

2003 DRAFTING REQUEST**Bill**Received: **11/07/2002**Received By: **gmalaise**Wanted: **As time permits**

Identical to LRB:

For: **Steven Foti (608) 266-2401**By/Representing: **Adam Raschka**This file may be shown to any legislator: **NO**Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - miscellaneous**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Foti@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Name change of a minor

Instructions:

See Attached--redraft 2001 AB 222

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 11/07/2002	jdye 11/21/2002					
/1			rschluet 11/22/2002		lemery 11/22/2002	amentkow 01/14/2003	

FE Sent For:

<END>

↳ Not
Needed

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11/22/2002 01:04:16 PM

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LRB-0635

FE Sent For:

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FE Sent For:

11/11/02 jld
11-21-02 ~~END~~

Malaise, Gordon

From: Raschka, Adam
Sent: Thursday, November 07, 2002 1:57 PM
To: Malaise, Gordon
Subject: 2001 AB 222

Hi Gordon,

I understand you drafted 2001 AB 222 for Rep. Foti last session. Could we please have the same bill drafted for 2003. Thanks.

Please give me a call if you have any questions.

Thank you,

Adam

Adam Raschka
Office of Majority Leader Steve Foti
608-264-8516
adam.raschka@legis.state.wi.us

-0635/1

Stays

2003

2001 ASSEMBLY BILL 222

and the nonpetitioning parent does not appear at the hearing or otherwise answer the petition. If

March 20, 2001 - Introduced by Representatives FOTI, J. LEHMAN, MCCORMICK, J. FITZGERALD, HUEBSCH, HUNDELMARK, KRAWCZYK, KREUSER, D. MEYER, MONTGOMERY, OWENS, PETTIS, STONE, SYKORA, TOWNSEND, WADE and LA FAVE, cosponsored by Senators WIRCH, DARLING, ROESSLER, ROSENZWEIG and SCHULTZ. Referred to Committee on Children and Families.

on the petition of one parent of the minor

Regen

- 1 **AN ACT to renumber and amend 786.37; to amend 786.36 (1) (intro.), 786.36**
 2 **(1) (b) and 786.36 (1) (c); and to create 786.36 (1m) and 786.37 (2) of the**
 3 **statutes; relating to: changing the name of a minor.**

Before

Analysis by the Legislative Reference Bureau

Under current law, a resident of this state, in order to change his or her name, must petition the circuit court for an order changing that name. ~~Currently, if~~ the person whose name is to be changed is a minor under 14 years of age, both parents of the minor, if living, must file the petition. ~~Currently, before~~ applying to the court for a name change, the petitioner must publish a legal notice of the application once each week for three consecutive weeks in a newspaper that is likely to give notice to persons affected by the name change. ~~The circuit court to change the name~~

This bill permits ~~one parent to petition for the name change~~ of a minor under 14 years of age who has two living parents, if the petitioning parent, in addition to filing proof of publication of the notice as required under current law, also files proof that the petitioning parent served a copy of the notice and petition on the nonpetitioning parent, or, if with reasonable diligence the nonpetitioning parent cannot be served, mailed a copy of the notice and petition to the last known address of the nonpetitioning parent, if that address can be obtained with reasonable diligence, and, if the nonpetitioning parent cannot be found or provided with notice, files an affidavit showing that the petitioning parent has made a reasonable attempt to provide notice to the nonpetitioning parent, but with reasonable diligence the nonpetitioning parent cannot be found or provided with notice. The court may order

the petitioning parent must also file

Find and

ASSEMBLY BILL 222

otherwise answers

Circuit

appears

~~the name change if the nonpetitioning parent does not appear at the hearing or otherwise answer the petition.~~ If the nonpetitioning parent ~~does appear~~ at the hearing or ~~answers~~ the petition and shows that he or she has not abandoned the minor or failed to assume parental responsibility for the minor, the court may order the name change only if the nonpetitioning parent consents.

, with proof & publication, may

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

under

SECTION 1. 786.36 (1) (intro.)^X of the statutes is amended to read:

786.36 (1) (intro.) Any resident of this state, whether a minor or adult, may upon petition to the circuit court of the county where he or she resides and upon filing a copy of the notice, ~~with proof of publication, as required by s. 786.37 (1),~~ if no sufficient cause is shown to the contrary, have his or her name changed or established by order of the court. If Subject to sub. (1m)[✓], if the person whose name is to be changed is a minor under the age of 14 years, the petition may be made by whichever of the following is applicable:

SECTION 2. 786.36 (1) (b)^X of the statutes is amended to read:

786.36 (1) (b) The guardian or person having legal custody of the minor, if both parents are dead or if the parental rights of both parents have been terminated by judicial proceedings.

SECTION 3. 786.36 (1) (c)^X of the statutes is amended to read:

786.36 (1) (c) The minor's mother, if the minor is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.60, ~~except that, if the paternity of the minor has been established, the father must also make the petition unless his rights have been legally terminated.~~

SECTION 4. 786.36 (1m)^X of the statutes is created to read:

and if paternity of the minor has not been established

PwF

ASSEMBLY BILL 222

with proof & publication,

1. Subject to subd. 2., the

1 786.36 (1m) (a) ~~Notwithstanding sub. (1) (a) and (c), the~~ name of a minor under
 2 14 years of age who has 2 living parents may be changed on the petition of one parent
 3 if, in addition to filing a copy of the notice, ~~with proof of publication, as~~ required by ^(under)
 4 s. 786.37 (1), the petitioning parent files proof of ~~personal service, substituted service~~
 5 ~~or mailing~~ ^{service} as required by ^(under) s. 786.37 (2), and, if the nonpetitioning parent cannot be
 6 found or provided with notice, files an affidavit showing that the petitioning parent
 7 has made a reasonable attempt to provide notice to the nonpetitioning parent, but
 8 with reasonable diligence the nonpetitioning parent cannot be found or provided
 9 with notice, and if the nonpetitioning parent does not appear at the hearing on the
 10 petition or otherwise answer the petition.

11 (b) If the nonpetitioning parent appears ⁽¹⁾ at the hearing on the petition or
 12 otherwise answers the petition and shows that he or she has not abandoned the
 13 minor, as described in s. 48.415 (1) (a) 3., (b) and (c), or failed to assume parental
 14 responsibility for the minor, as described in s. 48.415 (6), the court shall require the
 15 consent of the nonpetitioning parent before changing the name of the minor.

16 SECTION 5. 786.37 ^x of the statutes is renumbered 786.37 (1) and amended to
 17 read:

18 786.37 (1) Before applying to petitioning the court for changing or establishing
 19 to change or establish a name, the applicant petitioner shall publish a class 3 notice
 20 under ch. 985 stating the nature of the application petition and when and where the
 21 application petition will be made heard.

22 (3) This section does not apply to the name change of a minor if the parental
 23 rights to the minor of both parents have been terminated and, guardianship and
 24 legal custody of the minor have been transferred under subch. VIII of ch. 48, and the
 25 minor has been placed in a permanent foster home or a permanent treatment foster

SECTION #. 786.37 (title); Am

(3) 786.37 (title)

Insert
3-10make
PWF

move

ASSEMBLY BILL 222

SECTION 5

1 home, where[✓] and the guardian and legal custodian of the minor have petitioned to
2 change the minor's name to the name or names of the minor's foster parents or
3 treatment foster parents.

4 **SECTION 6.** 786.37 (2)[✓] of the statutes is created to read:

5 786.37 (2) If the petition is for the ^{change}~~change of name~~ of a minor under 14 years
6 of age who has 2 living parents and if the petition is being made by one parent of the
7 minor, the petitioner shall, in addition to publishing the notice under sub. (1),[✓] serve
8 a copy of the notice and petition on the nonpetitioning parent in the same manner
9 as a summons is served under s. 801.11 (1) (a) or (b) or, if with reasonable diligence
10 ~~the nonpetitioning parent cannot be served in that manner, mail a copy of the notice~~
11 ~~and petition to the last-known address of the nonpetitioning parent at or~~
12 ~~immediately prior to the time of the first publication under sub. (1), if that address~~
13 ~~can be ascertained with reasonable diligence.~~

14 **SECTION 7. Initial applicability.**

15 (1) This act first applies to petitions for name changes[✓] that are filed on the
16 effective date of this subsection.[✓]

17 (END)

Insert 3-10

~~is part of the following~~

¶ 2. If the nonpetitioning parent cannot be found or provided with notice, the name of a minor under 14 years of age who has 2 living parents may be changed on the petition of one parent if, in addition to meeting the filing requirements under subd. 1., the ~~petitioning parent files an affidavit showing that~~ ~~the petitioning parent cannot be found or provided with notice~~ ^{find and} petitioning parent has made a reasonable attempt to provide notice to the nonpetitioning parent, but with reasonable diligence the nonpetitioning parent cannot be found or provided with notice, and the nonpetitioning parent does not appear at the hearing or otherwise ~~answer the petition~~ answer the petition.

(ed & insert)

Mentkowski, Annie

From: Raschka, Adam
Sent: Tuesday, January 14, 2003 10:43 AM
To: LRB.Legal
Subject: Draft review: LRB-0635/1 Topic: Name change of a minor

It has been requested by <Raschka, Adam> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-0635/1 Topic: Name change of a minor